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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Robert Mecea,

Plaintiff,

v.

Buzzfeed, Inc.,

Defendant.

Case No:

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Robert Mecea ("*Plaintiff*"), by and through its undersigned counsel, for its Complaint against defendant BuzzFeed, Inc. ("*Defendant*") states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement [and the violation of the DMCA for the removal of copyright management information].

2. Plaintiff herein creates photographic images and owns the rights to these images which Plaintiff licenses for various uses including online and print publications.

3. Defendant owns and operates a website known as www.buzzfeednews.com (the "*Website*").

4. Defendant, without permission or authorization from Plaintiff actively copied, stored, and/or displayed Plaintiff's Photograph on the Website and engaged in this misconduct knowingly and in violation of the United States copyright laws.

PARTIES

5. Plaintiff Robert Mecea is an individual who is a citizen of the State of New York and maintains a principal place of business 583 17th Street Apt. 3, Brooklyn in Kings County, New York.

6. On information and belief, defendant Buzzfeed, Inc., is a New York Corporation with a principal place of business at 111 East 18th Street, New York in New York County, New York and is liable and responsible to Plaintiff based on the facts herein alleged.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over the federal copyright infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

8. This Court has personal jurisdiction over Buzzfeed, Inc. because it maintains its principal place of business in New York.

9. Venue is proper under 28 U.S.C. §1391(a)(2) because Buzzfeed, Inc. does business in this Judicial District and/or because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

FACTS COMMON TO ALL CLAIMS

10. Plaintiff is a professional photographer by trade who is the legal and rightful owners of photographs which Plaintiff licenses to online and print publications.

11. Plaintiff has invested significant time and money in building Plaintiff's photograph portfolio.

12. Plaintiff has obtained active and valid copyright registrations from the United States Copyright Office (the "USCO") which cover many of Plaintiff's photographs while many others are the subject of pending copyright applications.

13. Plaintiff's photographs are original, creative works in which Plaintiff's own protectable copyright interests.

14. Buzzfeed, Inc. is the registered owner of the Website and is responsible for its content.

1 15. BuzzFeed, Inc. is the operator of the Website and is responsible for its content.

2 16. The Website is a popular and lucrative commercial enterprise.

3 17. The Website is monetized in that it contains paid advertisements and, on
4 information and belief, Defendant profits from these activities.

5 18. The Website is monetized in that sells merchandise to the public and, on
6 information and belief, Defendant profits from these activities.

7 19. On June 14, 2021, Plaintiff authored a photograph of a crime scene investigator
8 bending down and examining one of the allegedly tainted milkshakes (the "*Photograph*"). A
9 copy of the Photograph is attached hereto as Exhibit 1.

10 20. Plaintiff applied to the USCO to register the Photograph on July 1, 2021 under
11 Application No. 1-10618207818.

12 21. The Photograph was registered by USCO on July 1, 2021 under Registration No.
13 VA 2-259-900.

14 22. On October 27, 2021 Plaintiff first observed the Photograph on the Website in a
15 story dated June 15, 2021. A copy of screengrab of Website including the Photograph is attached
16 hereto as Exhibit 2.

17 23. The Photograph was displayed at URL:
18 [https://www.buzzfeednews.com/article/juliareinstein/shake-shack-manager-nypd-false-](https://www.buzzfeednews.com/article/juliareinstein/shake-shack-manager-nypd-false-milkshake-poisoning)
19 [milkshake-poisoning.](https://www.buzzfeednews.com/article/juliareinstein/shake-shack-manager-nypd-false-milkshake-poisoning)

20 24. The Photograph was stored at URL: [https://img.buzzfeed.com/buzzfeed-](https://img.buzzfeed.com/buzzfeed-static/static/2021-06/15/15/asset/0d5ac754378b/sub-buzz-2204-1623771328-26.png?downsize=700%3A%2A&output-quality=auto&output-format=auto)
21 [static/static/2021-06/15/15/asset/0d5ac754378b/sub-buzz-2204-1623771328-](https://img.buzzfeed.com/buzzfeed-static/static/2021-06/15/15/asset/0d5ac754378b/sub-buzz-2204-1623771328-26.png?downsize=700%3A%2A&output-quality=auto&output-format=auto)
22 [26.png?downsize=700%3A%2A&output-quality=auto&output-format=auto](https://img.buzzfeed.com/buzzfeed-static/static/2021-06/15/15/asset/0d5ac754378b/sub-buzz-2204-1623771328-26.png?downsize=700%3A%2A&output-quality=auto&output-format=auto)

23 25. Without permission or authorization from Plaintiff, Defendant volitionally
24 selected, copied, stored and/or displayed Plaintiff copyright protected Photograph as is set forth
25 in Exhibit "1" on the Website.

26 26. On information and belief, the Photograph was copied, stored and displayed
27 without license or permission, thereby infringing on Plaintiff's copyrights (hereinafter the
28

“Infringement”).

27. The Infringement includes a URL (“*Uniform Resource Locator*”) for a fixed tangible medium of expression that was sufficiently permanent or stable to permit it to be communicated for a period of more than transitory duration and therefore constitutes a specific infringement. *17 U.S.C. §106(5); Perfect 10, Inc. v. Amazon.com, Inc.* 508 F.3d 1146, 1160 (9th Cir. 2007).

28. The Infringement is an exact copy of the entirety of Plaintiff’s original image that was directly copied and stored by Defendant on the Website.

29. On information and belief, Defendant takes an active and pervasive role in the content posted on its Website, including, but not limited to copying, posting, selecting, commenting on and/or displaying images including but not limited to Plaintiff’s Photograph.

30. On information and belief, Defendant directly contributes to the content posted on the Website by, inter alia, directly employing reporters, authors and editors as its agents, including but not limited to Julia Reinstein who is listed by Defendant as a reporter (<https://www.buzzfeednews.com/author/juliareinstein>) (“Employees”).

31. On information and belief, at all material times the Employees were acting within the course and scope of their employment when they posted the Infringement.

32. On information and belief, at all material times the Employees were acting within the course and scope of their agency when they posted the Infringement.

33. On information and belief, the Photograph was willfully and volitionally posted to the Website by Defendant.

34. On information and belief, Defendant engaged in the Infringement knowingly and in violation of applicable United States Copyright Laws.

35. On information and belief, Defendant has the legal right and ability to control and limit the infringing activities on its Website and exercised and/or had the right and ability to exercise such right.

36. On information and belief, Defendant monitors the content on its Website.

1 willfully infringed upon Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S.
2 Code, in that they used, published, communicated, posted, publicized, and otherwise held out
3 to the public for commercial benefit, the original and unique Photograph of the Plaintiff without
4 Plaintiff's consent or authority, by using them in the infringing articles on the Website.

5 49. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is
6 entitled to any an award of actual damages and disgorgement of all of Defendant's profits
7 attributable to the infringements as provided by 17 U.S.C. § 504 in an amount to be proven or,
8 in the alternative, at Plaintiff's election, an award for statutory damages against each Defendant
9 for each infringement pursuant to 17 U.S.C. § 504(c).

10 50. As a result of the Defendant' violations of Title 17 of the U.S. Code, the court in
11 its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs
12 pursuant to 17 U.S.C. § 505 from Defendant.

13 51. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is
14 entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17
15 U.S.C. § 502.

16 **JURY DEMAND**

17 52. Plaintiff hereby demands a trial of this action by jury.

18 **PRAYER FOR RELIEF**

19 **WHEREFORE** Plaintiff respectfully requests judgment as follows:

20 That the Court enters a judgment finding that Defendant has infringed on Plaintiff's
21 rights to the Photograph in violation of 17 U.S.C. §501 et seq. and award damages and monetary
22 relief as follows:

- 23 a. finding that Defendant infringed Plaintiff's copyright interest in the
24 Photograph by copying and displaying without a license or consent;
25 b. for an award of actual damages and disgorgement of all of Defendant's
26 profits attributable to the infringements as provided by 17 U.S.C. § 504
27 in an amount to be proven or, in the alternative, at Plaintiff's election, an
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award for statutory damages against each Defendant for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;

c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's works;

d. for costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;

e. for pre judgment interest as permitted by law; and

f. for any other relief the Court deems just and proper.

DATED: March 2, 2022

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